

REMARKS

Claims 1-15 are pending.

Claims 1-15 are rejected.

Claim 1 is amended for reasons of clarity.

In particular, Claim 1 is amended to correct a problem related to the antecedent basis of the wording "input buffer".

Claim rejections – 35 USC § 103

Rejection of claims 1, 4, 5, 7, 8, 9-11, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Wall et al. (U.S. Patent 2003/0037160 A1, hereinafter "Wall") in view of Harumoto et al. (U.S. Patent Pub. No. 2002/0004840 A1, hereinafter "Harumoto").

As to claim 1, the Examiner asserts that Wall discloses, among others, the feature of claim 1 of "*a retriever module for retrieving information comprising information representative of said maximum bandwidth rate.*" The Examiner cites Wall, paragraph [0034], the resource optimization module to determine how much of the available network bandwidth to utilize while transmitting data.

The Applicant respectfully disagrees with the Examiner and submits that Wall, neither in the cited paragraph or elsewhere discloses or even suggests the mentioned feature of the invention.

Rather than disclosing or suggesting a retriever module for retrieving information comprising information representative of a maximum bandwidth rate, Wall [0034] merely discusses that a resource optimization module determines how much of available network bandwidth to use for transmission of data. The resource optimization module of Wall does not determine the

available network bandwidth, but rather determines how much of the available network bandwidth to use.

The Examiner also asserts that Wall discloses, among others, the feature of claim 1 of *"said sending module sends to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data"*. The Examiner cites Wall, paragraph [0085]: the transmitter determines and controls the sequence size is specified to govern how the audio data is processed.

The Applicant respectfully disagrees with the Examiner and submits that Wall, neither in the mentioned paragraph or elsewhere discloses or even suggests the mentioned feature of claim 1.

Paragraph [0085] mentions: *"Aspects of the designated protocol are provided to compensate for problems associated with transmitting audio streams over a network. The designated protocol specifies a format for interleaving audio samples within data packets to minimize errors which are the result of consecutive missing audio data samples due to packet loss. The receiver may further compensate for missing audio data samples through interpolation. In accordance with the designated protocol, a sequence size is specified to govern how the audio data is processed. The transmitter controls the sequence size adaptively to maintain audio latency within a limit specified for each audio application."* The "designated protocol" is the "single audio protocol for transmission of audio data" of paragraph [0084] that *"specifies a sampling rate, bit resolution and quantization scheme"*, and that specifies *"a single audio protocol for transmission of audio data between transmitters on a network and the receiver"*.

Wall, rather than disclosing or suggesting the above mentioned feature of claim 1 of *"said sending module sends to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data"*, merely mentions the definition of a single protocol for transmission of audio data between

transmitters and receivers. In no way, Wall discloses or suggests the transmission from a receiver to a transmitter of information that would allow the transmitter to determine and control a sequence size; rather, Wall merely mentions the definition of a common protocol for transmission of audio data between transmitters and receivers. In addition, nothing in Wall allows to determine that the “sequence size” can be considered to be disclosing or even suggesting an equivalence to the “successive portions of said required data” of the claimed invention. Wall does not clearly explain what is meant by “sequence size”, and nothing in Wall allows to interpret the sequence size of Wall as the successive portions of required data of the claimed invention. Even if, for the sake of argument, the skilled in the art, reading Wall, would interpret the sequence size of Wall as being equivalent to the successive portions of required data of the claimed invention, an interpretation that Applicants neither acquiesce nor agree with, Wall does not disclose or even suggest that the sequence size is determined from information sent from the receiver to the transmitter. The argument of the Examiner, that Wall and in particular [0085] discloses the discussed feature of claim 1, seems rather far-fetched and seems to be based on an unreasonable broad interpretation.

The Applicants agree with the Examiner that Wall does not disclose the sending module determining at least one delay between two successive sending steps of said portions. The Applicants however respectfully disagree with the Examiner that Harumoto, citing paragraph [0026], discloses or even suggests the discussed feature of claim 1. The delay time of Harumoto, rather than being a delay between two successive sending steps of portions, is a time between arrival of data in a reception buffer of a receiver and its consumption by the receiver for play back, see paragraph [0026]: “*a delay time from when the terminal writes head data of the stream to the buffer to when the terminal reads the data to start playback*”. The argument of the Examiner, that Harumoto [0026] discloses the discussed feature of claim 1, seems rather far-fetched and seems to be based on an unreasonable broad interpretation.

As a conclusion, none of the cited documents, alone or in combination, disclose or even suggest all limitations of claim 1. Therefore, the Applicants submit that claim 1 stands in condition for allowance, and that the rejection of claim 1 be withdrawn.

Claims 4, 5 and 7 depend from Claim 1 that stands in condition for allowance. Claims 4, 5 and 7 add further limitations to patentable Claim 1 and stand therefore also in condition for allowance.

Claim 8 of a data requesting process comprises similar limitations in terms of steps as patentable Claim 1 of data requesting device. For at least the same reasons as for Claim 1, the Applicants submit that Claim 8 also stands in condition for allowance.

As to Claim 9, the Examiner asserts among others that Wall discloses the feature of “specification means for determining at least one size of successive portions of said data to be provided to said data requesting device”, citing Wall, paragraph [0085].

The Applicant respectfully disagrees with the Examiner and submits that Wall, neither in the cited paragraph or elsewhere, discloses or even suggests the mentioned feature of the invention, for similar reasons as previously exposed for the similar feature of claim 1 of “*said sending module sends to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data*”.

The Examiner further asserts among others that Wall, paragraph [0052] discloses the feature of claim 9 of “said streaming module receiving from said data requesting device information representative of capacities of said data requesting device.

The Applicant respectfully disagrees with the Examiner and submits that Wall, neither in the cited excerpt or elsewhere discloses or even suggests the mentioned feature of claim 9, for at least the following reasons.

Wall, paragraph [0052] merely discusses providing computational capacity to the system independently of the destination the data is generated for. The computational capacity is the capacity to execute computer programs on behalf of multiple HID devices. In no way, Wall, in paragraph [0052] or elsewhere, discloses or suggests that a streaming module receives from a data requesting device information representative of capacities of the data requesting device.

The Examiner further asserts that Harumoto, paragraph [0139] discloses the feature of claim 9 of “said capacities comprising a maximum bandwidth rate. The Examiner cites notably parameter S_{max}.

The Applicant respectfully disagrees with the Examiner and submits that Wall, neither in the cited paragraph or elsewhere discloses or even suggests the mentioned feature of claim 9, for at least the following reasons.

Rather than representing a maximum bandwidth rate, Harumoto's parameter S_{max}, according to its definition in paragraph [0132] is “the entire capacity (“S_{max}”) of the buffer included in the terminal 102”, where the buffer is “the reception buffer 505 and the decoder buffer 508” of FIG.3. Clearly, S_{max} is a buffer size, rather than being a maximum bandwidth rate.

As a conclusion, none of the cited documents, alone or in combination, disclose or even suggest all limitations of claim 9. Therefore, the Applicants submit that claim 9 stands in condition for allowance, and that the rejection of claim 9 be withdrawn.

Claims 10 and 11 depend from Claim 9 that stands in condition for allowance. Claims 10 and 11 add further limitations to patentable Claim 9 and stand therefore also in condition for allowance.

Claim 14 of a data transmitting process comprises similar limitations in terms of steps as patentable Claim 9 of a data transmitting device. For at least the same reasons as for Claim 9, the Applicants submit that Claim 14 also stands in condition for allowance.

Claim 15 of a computer program product comprises program code instructions for executing the process steps of patentable claim 8. The Applicants therefore submit that Claim 15 also stands in condition for allowance.

Rejection of claims 2, 3, 6, 12 and 13 under 35 U.S.C. 103(a) as being unpatentable over Wall in view of Harumoto, in further view of Clisham et al. (U.S. Patent Pub. No. 2004/0168052 A1, hereinafter "Clisham").

As to claims 2, 3 and 6, these claims depend from claim 1 that stands in condition for allowance. Claims 2, 3 and 6 add further limitations to patentable claim 1 and stand, at least for that reason, also in condition for allowance.

As to claims 12 and 13, these claims depend from claim 9 that stands in condition for allowance. Claims 12 and 13 add further limitations to patentable claim 9 and stand, at least for that reason, also in condition for allowance.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's

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attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

It is believed that no fees are due in connection with this Amendment. However, if any fee is due, please charge it to Deposit Account No. 07-0832.

Respectfully submitted,
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